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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,131	08/01/2003	Alvaro Maury	CS02-012	3108

7590

12/09/2004

GEORGE O. SAILE  
28 DAVIS AVENUE  
POUGHKEEPSIE, NY 12603

EXAMINER
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RACHUBA, MAURINA T

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/633,131	MAURY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	M Rachuba	3723	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 10-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 19-22 and 27 is/are rejected.
- 7) ☐ Claim(s) 5-8 and 23-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/29/03</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 10-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 23 September 2004.
2. Applicant's election with traverse of Invention II in the reply filed on 23 September 2004 is acknowledged. The traversal is on the ground(s) that the apparatus of claims 1-9 is not independent from the apparatus of claims 10-18 and 19-27. This is not found totally persuasive because the apparatus of claims 10-18 is independent and distinct from the apparatus of claims 19-27, in that it is directed to a conditioning apparatus, while claims 1-9 and 19-27 are directed to a polishing apparatus. However, the examiner agrees that the apparatus of claims 1-9 and the method of claims 19-27 should be rejoined. Please refer to the action below.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 2, 3, 5, 8, 9, 20, 21, 23, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 appears to be limiting a method of using the apparatus of claim 1, but does not further limit the apparatus. The scope of claim 9 cannot be determined. Claims 2, 3, 5, 8, 20, 21, 23 and 26 all

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recite "said slurry emulsion". "Emulsion" is defined as 1. A suspension of small globules of one liquid in a second liquid with which the first will not mix: *an emulsion of oil in vinegar*.<sup>1</sup> This limitation lacks antecedent basis, as only a slurry has been previously claimed. Applicant has not claimed structure of method for providing the emulsion.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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<sup>1</sup> *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from INSO Corporation; further reproduction and distribution restricted in accordance with the Copyright Law of the United States. All rights reserved.

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7. Claims 1-4, 9 (as best understood), 19-23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiou et al US006398627B1 in view of Kawashima US006293849B1. '627 discloses the claimed invention, including a manifold having identical nozzles, each with a check valve, but does not disclose bifurcated supply lines, each branch having an adjustable flow control valve, and a flow meter. '849, in a similar device, figure 1 and its description, teaches providing a bifurcated supply line 14, 16 to a nozzle to supply diluted slurry to a polishing pad, the bifurcated supply line having one branch from a slurry supply, and one from a dilution supply. The bifurcated lines each have a shutoff valve 26, a pressure regulator 28, and a flow valve 29. It would have been obvious to one of ordinary skill to have provided '627 with the bifurcated supply line taught by '849, to allow controlled mixing of slurry and dilution, as taught by '849, to more accurately control the polishing properties of the device, see column 2, lines 37-54.

8. Applicant may overcome this rejection by amending the claims to include limitations that each individual nozzle is fed from a bifurcated supply line.

***Allowable Subject Matter***

9. Claims 5-8, and 23-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other similar devices are cited of interest.

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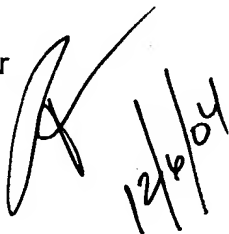
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is **(571) 272-4493**.

The examiner can normally be reached on Monday-Thursday from 8:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail, can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Rachuba  
Primary Patent Examiner

Handwritten signature of M. Rachuba and the date 12/6/04.